

Appl. No. : 09/931,836
Filed : August 16, 2001

REMARKS

Upon entry of the amendments, Claims 22-26, and 33-47 are pending as set forth above.

Compliance with 35 U.S.C. § 135(b)(2)

New Claims 41-47 have been added as set forth above. The new claims have been "copied" or modeled after some of the claims in U.S. Patent Application Serial No. 10/321,164, filed on December 17, 2002, which was published on September 4, 2003 as Publication No. US 2003/0165530. The new claims are added pursuant to 35 U.S.C. § 135(b)(2) ("A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an application published under section 122(b) of this title may be made in an application filed after the application is published only if the claim is made before 1 year after the date on which the application is published"). Thus, new claims have been added to avoid estoppels under § 135(b)(2), thereby preserving the ability to pursue such claims, for example, through interference proceedings.

Support for new Claims 41-47 is found in the application as filed. For example, new Claims 41-43 are supported, for example, by the claims as filed and by Figure 2 (showing C1q domain signature and domain proteins). Exemplary support for new Claims 44-45 is found in the specification at page 2 under paragraph 1, with the heading "PRO1484." Exemplary support for new Claim 46 is found in original Claim 18 and throughout the specification. Exemplary support for new Claim 47 is found in the specification at page 53. No other claim amendments have been made and no new matter has been added.

Discussion of Rejections under 35 U.S.C. § 102(e)

The only issue remaining is the rejection under 35 U.S.C. § 102(e) in view of U.S. Patent No. 6,521,233 ("Piddington"). According to the Office Action, Piddington "*claims* the rejected invention." As such, according to the Office Action, the reference can only be overcome by establishing priority of invention through interference proceedings.

Applicants thank the Examiner for her time and helpful attention on the telephone on Friday, September 03, 2004. Applicants also thank Interference Specialist Caputa for his time and suggestions regarding procedures related to initiating an interference. As discussed, Applicants desire to enter into an interference proceeding to determine rights to the claimed

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subject matter. Therefore, Applicants are in the process of preparing a Request for Interference with Patent under 37 C.F.R. § 1.607.

Conclusion

Applicants have added new claims to avoid estoppels by complying with § 135(b)(2). Applicants also have endeavored to address the rejection raised in the Office Action, and will submit the above-mentioned Request in order to further advance the case toward allowance by determining proper priority. If the Examiner finds any remaining issues that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 9/3/04

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